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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/734,349	12/13/2003	Donald F. Evans	045176/272183	3584
826	7590	03/30/2005	EXAMINER	
ALSTON & BIRD LLP BANK OF AMERICA PLAZA 101 SOUTH TRYON STREET, SUITE 4000 CHARLOTTE, NC 28280-4000			CRANSON JR, JAMES W	
			ART UNIT	PAPER NUMBER
			2875	

DATE MAILED: 03/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/734,349

Applicant(s)

EVANS ET AL.

Examiner

James W. Cranson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 13 December 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 16-38 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 29-38 is/are allowed.
- 6) ☒ Claim(s) 16-22 and 26-28 is/are rejected.
- 7) ☒ Claim(s) 17, 23, 24 and 25 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 September 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some    \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>9/20/04</u> .   | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Priority***

#### **CROSS-REFERENCES TO RELATED APPLICATIONS**

This application claims the benefit of U.S. provisional patent application Ser. No 60/510,915 filed Oct 14, 2003, and is a CIP of Ser. No 10/060,711 filed January 30, 2002.

### ***Drawings***

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the circuit board must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

*Claim Objections*

Claims 17 and 25 are objected to because they are identical.

*Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 16, 17, 20, and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over USPN 4,177,500 to Nicholl et al in view of USPN 5,833,350 to Moreland. A lighting device having a power sensor for sensing a disruption in power is disclosed by Nicholl. An LED indicator light is not disclosed by Nicholl. Moreland in an automatic emergency lighting device teaches using LED as indicator light. It would have been obvious to one of ordinary skill in the art to provide Nicholl with an LED indicator light as taught by Moreland because it is well known in the illumination art that LEDs are more efficient than bulb light sources.

Regarding claim 16;

A lighting device (1) with power sensor (7) comprising:

at least one LED (56) in electrical communication with circuit;

a local electrical energy source (6) for the LED (56)

a control circuit (7) for LED (56) and power sensor whereby LED is illuminated when power is disrupted (column 2, lines 26-40),

a reflector (column 5, lines 63- 66) proximate LED for reflecting LED light

Regarding claim 17, according to claim 16;

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Moreland discloses that LED is mounted adjacent to a light fixture..

Regarding claim 20, according to claim 16;

Nicholl discloses an electrochemical battery pack (6).

Regarding claim 21, according to claim 20;

Nicholl discloses battery charger for charging battery pack ( column 5, lines 46-47)

Regarding claims 18 and 19 according to claim 16, wherein LED is white or amber.

Claims 18 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over USPN 4,177,500 to Nicholl et al in view of USPN 5,833,350 to Moreland as applied to claim 16 above, and further in view of USPN 6,520,669 to Chen et al. Nicholl as modified above does not disclose the type of LED. Chen in a lighting device teaches the use of amber and white LEDs. It would have been obvious to one of ordinary skill in the art to provide modified Nicholl with a white or amber LED as taught by Chin because it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use for prior art does not make the claimed invention patentable over that prior art.( *In re Leshin*, 125 USPQ 416).

Regarding claim 22, according to claim 21, including wireless technology;

Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over USPN 4,177,500 to Nicholl et al in view of USPN 5,833,350 to Moreland as applied to claim 16 above, and further in view of USPN 6,863,417 to Hill. Nicholl as modified above does not disclose wireless technology. Hill in lighting device teaches the use of wireless technology. It would have been obvious to one of ordinary skill in the art to provide modified Nicholl with wireless technology as taught by Hill. The reason as stated in Hill is that the number of signal lines can be reduced.

Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over USPN 5,412, 542 to Mandy in view of US 2004/0120152 A1 to Bolta et al. Mandy discloses the claimed invention except for having a reflector positioned proximate to at least one LED. Bolta in an LED lighting fixture for emergency back-up teaches the use of the combination of an LED and a reflector. It would have been obvious to one of ordinary skill in the art to provide Mandy with an LED and reflector combination as taught by Bolta. The reason is that it is well known in the illumination art to use one or more reflectors in combination with one or more LEDs to modify or enhance the light emitted from the one or more LEDs.

Regarding claim 26;

A lighting device (26) with power sensor (144) comprising:

a light fixture with bulb(126,234) in circuit with main power supply

at least one LED (230) in electrical communication with circuit;

a local electrical energy source (150,236)for the LED (230)

a control circuit (144)for LED (230)and power sensor whereby LED is illuminated

when power is disrupted (column 7, lines 55-66),

a reflector ( added by Bolta) proximate LED for reflecting LED light.

Claim 27 rejected under 35 U.S.C. 103(a) as being unpatentable over USPN 5,412, 542 to Mandy in view of US 2004/0120152 A1 to Bolta et al. as applied to claim 26 above, and further in view of US 2004/0257789 to Nielson et al. Mandy as modified does not use a ballast. Nielson in an LED emergency lighting device teaches the use of a ballast. . It would have been obvious to

one of ordinary skill in the art to provide modified Mandy with ballast as taught by Nielson The reason is that the ballast will make the current more stable and can provide the starting voltage.

Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over USPN 5,412, 542 to Mandy in view of US 2004/0120152 A1 to Bolta et al. It would have been obvious to one of ordinary skill in the art to use the article limitations of claim 26 to perform the method of claim 28 because the reasons set forth above in the rejection of claim will apply because the article limitations are found in the limitations of the method claim.

*Allowable Subject Matter*

Claims 23, according to claim 22, and claim 24 according to claim 23 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter:

Claim 23, according to claim 22, adds to the wireless technology of claim 22 that battery, power sensor and control circuit are connected via a circuit board and that all are enclosed in the housing.

Claim 24 depends from claim 23 and would be allowable for same reason.

The limitations in claim 23 combined with the independent claim limitations of claim 16 are not found or taught in the art of record.

Claims 29- 38 are allowed.

The following is an examiner's statement of reasons for allowance: Independent claim 29 has the limitations of claim 26 and adds that the LEDs are in a circular pattern adjacent to parabolic reflectors that have a vertex.

Claims 30-37 depend from claim 29 and would be allowable for the same reasons.

Independent claim 38 is the method of claim 29 and is allowable for the same reasons.

The limitations in claims 29-38 are not found or taught in the art of record.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### *Conclusion*

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure are USPN 5,663,711 to Sanders et al and USPN 4,071,749 to Balogh.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James W. Cranson whose telephone number is 571-272-2368. The examiner can normally be reached on Mon-Fri 8:30A.M.- 5:00P.M..


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandy O'Shea can be reached on 571-272-2378. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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**THOMAS M. SEMBER**  
**PRIMARY EXAMINER**